THE BOMBAY BUILDING (CONTROL ON ERECTION, RE-ERECTION AND CONVERSION) ACT, 1948.

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SCHEDULE.

BOMBAY ACT No. XXXI OF 1948.[1]

[THE BOMBAY BUILDING (CONTROL ON ERECTION, RE-ERECTION AND CONVERSION) ACT, 1948.]

[*10th April 1948*]

Amended by Bom. 69 of 1948.
" " " 15 of 1950.†
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 53 of 1953.
" " " 58 of 1954.

An Act to provide for the control on [2][erection, re-erection and conversion] of buildings in the Province of Bombay.

WHEREAS with a view to providing better housing accommodation and securing economic and orderly building development [3][and the proper location of buildings erected or re-erected for the purposes of public amusements and industrial undertakings to avoid overcrowding and nuisances] it is necessary to provide for the control on the erection and re-erection of buildings in the Province of Bombay [3][and their conversion] and for certain other purposes; It is hereby enacted as follows :—

Short title, [8][extent and application].

1. (*1*) This Act may be called the Bombay Building (Control on Erection [4][Re-erection and Conversion]) Act, 1948.

(*2*) It extends to the areas specified in the Schedule.

(*3*) The [5][State] Government may, by notification in the *Official Gazette*, direct that it shall also extend to any other area specified in such notification.

[6]* * * * * * *

[7][(*4*) In the areas to which this Act extends for the time being, the provisions thereof shall, after the date of the commencement of the Bombay Building (Control on Erection) (Amendment) Act, 1950, apply only to buildings which are intended to be used for the purpose of a theatre, a cinema or any other place of public amusement :

Bom. XV of 1950.

Provided that in the City of Bombay, the Bombay Suburban District and the Thana Taluka of the Thana District, the said provisions shall after the aforesaid date apply also to buildings intended to be used for an industrial undertaking.]

[9][Provided further that the State Government may by notification in the *Official Gazette* direct that the provisions of this Act shall apply to such areas, such of the aforesaid classes of buildings and from such date as may be specified in the notification.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Pt. V, page 157.
[2] These words were substituted for the words " erection and re-erection ", by Bom. 53 of 1953, s. 2.
[3] This portion was inserted, *ibid.*, s. 3.
[4] These words were inserted, *ibid.*, s. 4(*1*).
[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[6] The words beginning with the words " The Provincial Government may further " and ending with the words " in the notification " were deleted by Bom. 15 of 1950, s. 2(*1*).
[7] This sub-section was inserted, *ibid.*, s. 2(*2*).
[8] These words were substituted for the words " and extent ", *ibid.*, s. 2(*3*).
[9] This proviso was added by Bom. 53 of 1953, s. 4(*2*).

†Section 6 of the Bombay Building (Control on Erection) (Amendment) Act, 1950 (Bom. 15 of 1950), reads as under:—

Savings.

6. The amendments made in the said Act by this Act shall not affect—

(*1*) any right, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(*2*) any penalty, forfeiture or punishment incurred in respect of any offence committed before the commencement of this Act, or

(*3*) any legal proceeding or remedy in respect of any such right, obligation, liability, penalty, forfeiture or punishment or anything done or suffered before the commencement of this Act,

and any such legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed.

Definitions.

2. In this Act, unless there is anything repugnant to the subject or context,—

(*i*) "building" means a house, out-house, stable, shed, hut and every other structure, involving use of bricks, cement, asbestos cement sheets, iron, steel or any other material which the [1][State] Government may by notification in the *Official Gazette* specify.

Explanation.—Use of iron or steel by way of nails or screws or doors, windows and fastenings shall not be deemed to be use of iron or steel within the meaning of this definition.

(*ii*) "Controller" means the person appointed as such under section 3;

[2][(*ii-a*) "conversion of a building" means to use or permit to be used for the purpose of an industrial undertaking, any building to which this Act applies, which was erected, re-erected, or used, or intended to be used, for any other purpose; and "to convert" shall be construed accordingly:

Provided that a building shall not be deemed to be used or permitted to be used for an industrial undertaking by reason only of its being used as a godown, storehouse or warehouse; but any change in the use of such building for the purpose of any other industrial undertaking shall be deemed to be a conversion of the same.]

(*iii*) "erection or re-erection of a building" includes any alteration to, or enlargement of, or addition to, any building; and the expression "erect or re-erect a building" shall be construed accordingly;

(*iv*) "prescribed" means prescribed by rules made under this Act;

[3]* * * * * *

Appointment of Controllers of Buildings.

3. The [1][State] Government may, by notification in the *Official Gazette*, appoint for any area one or more persons to be the Controllers of Buildings for the purposes of this Act.

Application for permission to erect or re-erect buildings, or to continue to erect or re-erect building [6][or for conversion].

4. (*1*) Every person desiring to commence the work of erection or re-erection of a building or to continue the work of erection or re-erection of a building commenced before the date on which this Act has come into force [4][and every person desiring to convert a building] shall make an application in writing to the Controller for permission to do so. The application shall be in such form and contain such information in respect of the building to which the application relates as may be prescribed.

(*2*) On receipt of such application the Controller, after making such enquiry as he considers necessary, shall, [5][subject to such general or special orders as the State Government may make in this behalf,] by order in writing either—

(*a*) grant the permission subject to such conditions, if any, as may be specified in the order; or

(*b*) refuse to grant such permission:

[7]* * * * * * *

(*3*) If at the expiration of a period of [8][three months] after an application under sub-section (*1*) has been received by the Controller no order in writing has been passed by the Controller permission shall be deemed to have been granted without imposition of any condition.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This clause was inserted by Bom. 53 of 1953, s. 5.
[3] Clause (*v*) was deleted by Bom. 15 of 1950, s. 3.
[4] These words were inserted by Bom. 53 of 1953, s. 6 (*1*).
[5] These words were inserted, *ibid.*, s. 6(*2*).
[6] These words were added, *ibid*, s. 6 (*3*).
[7] Proviso and Explanation in sub-section (*2*) were deleted by Bom. 15 of 1950, s. 4.
[8] These words were substituted for the words "One month" by Bom. 58 of 1954, s. 2, Schedule.

5. [*Revocation or modification of permission by State Government.*] *Deleted by Bom. 53 of 1953, s. 7.*

6. (*1*) Any person aggrieved by an order of the Controller under sub-section (*2*) of section 4 may, within thirty days from the date of the communication of such order to him, prefer an appeal to the [1][State] Government. Right of appeal.

(*2*) The order of the [1][State] Government on appeal shall be final.

7. No compensation shall be claimed by any person for any damage or loss sustained by him in consequence of— Bar of Compensation.

(*a*) any order of the Controller under sub-section (*2*) of section 4; or

(*b*) any order passed by the [1][State] Government under section [2]* * 6; or

(*c*) anything which is in good faith done or intended to be done under this Act.

8. Nothing in this Act shall affect the power of any authority to impose restrictions upon the erection or re-erection of a building, [3][or the conversion of a building] under any other enactment for the time being in force. Saving of other enactments.

9. (*1*) No work of [4][erection, re-erection or conversion] of a building shall be commenced, continued or carried out without the permission of the Controller granted under section 4 or [5][in contravention of any conditions imposed by an order under section 4 or 6.] Penalties.

[6][(*2*) Where any work of erection, re-erection or conversion of a building is commenced, continued or carried out in contravention of sub-section (*1*), the person at whose expense the work of erection, re-erection or conversion of the building is commenced, continued or carried out and any other person undertaking the commencement, continuance or carrying out of such work and any architect, engineer or other person employed in an advisory or supervisory capacity in the commencement, continuance or carrying out of such work shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.]

(*3*) Any court trying an offence under sub-section (*2*) may order the forfeiture to [7][Government] of all materials which the court is satisfied were collected, purchased or otherwise obtained for the work of erection or re-erection.

10. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every person who at the time of the commission of the offence was a director, manager, secretary, agent, or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be liable to the punishment provided for the offence. Offence by companies etc.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] The figure and word "5 or" were deleted by Bom. 53 of 1953, s. 8.
[3] These words were inserted, *ibid.*, s. 9.
[4] These words were substituted for the words "erection or re-erection", *ibid.*, s. 10 (*1*).
[5] This portion was substituted for the portion beginning with the words "after such permission" and ending with the figures and word "5 or 6", *ibid.*
[6] This sub-section was substituted for the original by Bom. 53 of 1953, s. 10 (2).
[7] This word was substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950.

Power of entry, etc.

11. (*1*) Any person not below the rank of a Gazetted Officer authorised in this behalf by the [1][State] Government by general or special order may—

(*a*) enter and inspect any land on which he has reason to believe that the work of [2][erection or re-erection or conversion] of a building is being commenced, continued or carried out in contravention of the provisions of this Act;

(*b*) ask of any person such questions as he deems necessary for carrying out the purposes of this Act;

(*c*) ask any person at whose expense the work of erection or re-erection [3][or conversion of a building] is commenced, continued or carried out or any person engaged in the carrying out of such work to produce or furnish such books or documents or other information being documents or information in his possession, relating to such work;

(*d*) seize any material which he has reason to believe have been collected, purchased or otherwise obtained for the work of erection or re-erection of a building in contravention of the provisions of this Act and subject to the provisions of sub-section (*3*) of section 9 dispose of them in the prescribed manner.

(*2*) Whoever voluntarily obstructs any person authorised under sub-section (*1*) in the exercise of any powers conferred by that sub-section or refuses to answer or wilfully gives a false answer to any question asked of him or refuses to produce or furnish any books, documents or other information as required under the said sub-section [4][shall, on conviction, be punished] with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Protection of persons acting under this Act.

12. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Savings.

13. Nothing in this Act shall apply to—

(*a*) alterations in a building [5][not being a conversion and] not involving increase in the existing plinth area or roof area or in the total height of the building;

(*b*) re-erection of a dilapidated part of a building [6][not being a conversion and] not involving re-erection of the whole building or, in the case of a storeyed building, of the whole storey;

(*c*) [7]* * * furnaces, fire-places, flues, chimneys, washing places, drainage lines, latrines, urinals, septic tanks or manholes and inspection chambers for drains;

(*d*) storage tanks or wells;

(*e*) boundary walls, compound walls and fencings;

(*f*) the erection [8][, re-erection or conversion of a building]—

(*i*) which is undertaken or carried out on behalf of the Government or a local authority or in pursuance of a contract with the Government or a local authority, or

(*ii*) the cost of which, or any part of the cost of which, the Government or a local authority has agreed to pay.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the words "erection or re-erection" by Bom. 53 of 1953, s. 11 (*1*).
[3] These words were inserted, *ibid.*
[4] These words were substituted for the words "shall be punishable", *ibid*, s. 11 (*2*).
[5] These words were inserted, *ibid*, s. 12 (*1*).
[6] These words were inserted, *ibid*, s. 12 (*2*).
[7] The words "machinery foundations" were deleted by Bom. 53 of 1953, s. 12 (*3*).
[8] These words were substituted for the words "or re-erection of a building", *ibid.*, s. 12 (*4*).

Power to make rules.

14. (*1*) The [1][State] Government may, by notification in the *Official Gazette*, make rules to carry into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*i*) the form of application and the information to be supplied under sub-section (*1*) of section 4 ;

(*ii*) the manner in which persons authorized under sub-section (*1*) of section 11 shall exercise their powers and dispose of the materials seized under clause (*d*) of the said sub-section.

Delegation of Controller's powers to Housing Board constituted under Bom. LXIX of 1948.

[2][**14A.** Notwithstanding anything contained in this Act, the [2][State] Government may direct that the powers conferred and duties imposed upon the Controller under this Act, shall in the area in which the Bombay Housing Board Act, 1948, has come into force, be exercised and performed by the Housing Board constituted under the said Act.]

Bom. LXIX of 1948.

Repeal.

15. (*1*) The Bombay Building (Control on Erection) Ordinance, 1948, is hereby repealed ; and it is hereby declared that the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904, shall apply to the repeal as if that Ordinance were an enactment.

Bom. Ordinance No. I of 1948.

Bom. I of 1904.

(*2*) Notwithstanding the repeal of the said Ordinance, any application made under sub-section (*1*) of section 4 of that Ordinance prior to the commencement of this Act shall be deemed to have been made under the corresponding provision of this Act :

Provided that the period of one month mentioned in sub-section (*3*) of section 4 of this Act shall be deemed to commence and run from the date on which such application was received by the Controller.

SCHEDULE.

1. The City of Bombay.
2. The Bombay Suburban District.
3. The Thana Taluka of the Thana District.

[3]* * * * *

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This section was inserted by Bom. 69 of 1948, s. 75 and Schedule.
[3] Entries 4 to 6 were deleted by Bom. 15 of 1950, s. 5.